

**IN THE UNITED STATES DISTRICT COURT
for the
EASTERN District of MISSOURI**

In re GRAND JURY SUBPOENA)	
Dated October 8, 2015)	
)	
)	No. 2014R00975
)	
MISSOURI DIRECTOR OF REVENUE,)	
Subpoenaed Party.)	
)	
)	

MOTION TO QUASH OR MODIFY SUBPOENA

The Missouri Director of Revenue, by counsel, moves this Court for its order quashing the subpoena referenced below pursuant to Federal Rule of Civil Procedure 45(c)(3)(A) and Local Rules 37-03.04. In support of this motion, the Missouri Director of Revenue states:

1. The subpoena (copy of which is attached hereto as Exhibit A) directs the Custodian of Records of the Missouri Department of Revenue to, in lieu of testimony, produce personal tax liability payment records for an individual taxpayer, including any and all payments made during the calendar year 2014. The Director of Revenue is not a party to this action.
2. The subpoena commands the production of privileged tax records under Section 32.057, RSMo. The records, which are required to be produced, are not those of the party on whose behalf the subpoena was issued.
3. Pursuant to Section 32.057.2. RSMo, the tax records of the Department of Revenue can only be revealed in civil or criminal litigation, when that litigation involves the revenue laws of this state, the United States or some other state of

the United States. After conferring with the issuer of the subpoena, as required by Local Rule 37.2, it does not appear that the parties involved in the circumstances surrounding the subpoena are involved in civil or criminal litigation involving federal or state revenue laws. Therefore, the exceptions to Section 32.057, RSMo, do not apply in the instant case.

4. Section 32.057.3, RSMo, provides that unauthorized disclosure of confidential tax records is a class D felony.

5. The undersigned attorney considered this subpoena, and has determined that the documents requested contain privileged material, the release of which would subject the Custodian of Records of the Department of Revenue to criminal charges.

6. Pursuant to Local Rule 37-03.04, the undersigned attorney Jeffrey W. Hunt conferred with opposing counsel Steven Muchnick regarding this subpoena in an attempt to resolve the issue on October 20, 2015 at 1:50pm by telephone. Due to differences in interpretation of the state statute, and the lack of an appropriate alternative, counsel were unable to reach an accord.

6. If the Court is unwilling to quash the subpoena, the Missouri Department of Revenue moves the court to issue a protective order prohibiting testimony or production of documents regarding the personal tax liability payment records because Section 32.057, RSMo, prohibits disclosure.

WHEREFORE, for the above-stated reasons the Director prays the Court to quash this subpoena.

Respectfully submitted,

Wood Miller
Acting General Counsel
Department of Revenue

/s/ Jeffrey W. Hunt
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Attorneys for Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the following either through the court's ECF system or by ordinary mail, postage pre-paid, on this day of October 22, 2015.

Steven A. Muchnick
Assistant United States Attorney
U.S. Attorney's Office
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/s/ Jeffrey W. Hunt
Jeffrey W. Hunt, Missouri Bar No. 68151